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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,900	02/17/2004	Emmanuel Sedda	GRY-118US	9612
23122	7590	12/16/2005	EXAMINER	
RATNERPRESTIA P O BOX 980 VALLEY FORGE, PA 19482-0980			RIDDLE, KYLE M	
		ART UNIT	PAPER NUMBER	
		3748		

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

88

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/779,900	SEDDA ET AL.
	Examiner	Art Unit
	Kyle M. Riddle	3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 21 November 2005.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-10 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 17 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The arguments presented in applicant's amendment received 16 August 2005 were deemed persuasive, however, a new non-final rejection is set forth below.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 5, 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hattori et al. (U.S. Patent 6,334,413) in view of Stupak, Jr. (U.S. Patent 6,542,348).

Hattori et al. disclose an electromagnetic actuating system comprising:

- two polarized electromagnets with an upper core 40 and coil 48 and lower core 42 and coil 50 with a mobile armature 38 inbetween (column 4, lines 6-9);
- controlling the current to effect switching from a first position with the armature 38 contacting the upper coil 40 (column 4, lines 44-46) to a second position away from the upper core 40 and toward the lower core 42 (column 5, lines 9-24) based on the operating state of the engine computed by ECU 54 to include engine speed (column 4, lines 15-21);

- varying and reducing the attracting current as the armature 38 approaches the lower core 42 (column 4, lines 9-24);
- increasing or decreasing the amount of attracting or releasing current (amplitude) to effect transit times of the armature 38 (column 7, lines 61-67 with column 8, lines 1-10);

- actuating intake and exhaust valves of an internal combustion engine (column 3, lines 25-28).

Hattori et al., however, fail to disclose progressively increasing the attracting current to a peak value and immediately decreasing after the peak value is achieved.

Stupak, Jr. teaches a method for driving magnetic devices to include electric motors and linear actuators (column 1, lines 13-15) whereby the current is increased substantially linearly (progressively) to a peak value and, upon reaching the peak value, is immediately decreased (column 4, lines 39-44). It would have been obvious to one having ordinary skill in the art at the time of the invention was made, to have utilized the teaching by Stupak, Jr. in the apparatus of Hattori et al., since the use thereof would have provided an adjustable controlling means for valve control and seating control.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hattori et al. in view of Stupak, Jr., and further in view of Curtis et al. (U.S. Patent 6,532,919).

Hattori et al., as modified by Stupak, Jr., disclose an electromagnetic actuating system for actuating intake and exhaust valves of an internal combustion engine comprising two polarized upper and lower electromagnets with a mobile armature inbetween, controlling the current to effect switching from a first position with the armature contacting the upper electromagnet to a second position away from the upper electromagnet and toward the lower electromagnet based on the operating state of the engine, varying and reducing the attracting current as the armature approaches the upper or lower electromagnets, increasing or decreasing the amount of attracting or releasing current (amplitude) to effect transit times or landing impact of the armature, and the current is increased substantially linearly (progressively) to a peak value and, upon reaching the

peak value, is immediately decreased. They, however, fail to disclose reversing or inverting the current.

Curtis et al. teach a permanent magnet enhanced electromagnetic valve actuator that reverses or inverts the current through electromagnetic coil 24 to open and close valve 12 and reduce the landing velocity (column 3, lines 31-40, lines 45-48, lines 57-67 with column 4, lines 1-4). Furthermore, Hattori et al. suggests providing currents in an electromagnet to create a magnetic flux in a direction opposite of the permanent magnet (column 1, lines 42-46). It would have been obvious to one having ordinary skill in the art at the time of the invention was made, to have utilized the teaching by Curtis et al. in the electromagnetic valve systems of Hattori et al., as modified by Stupak, Jr., since the use thereof would have provided an alternate means to effect valve actuation.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being obvious over Hattori et al. in view of Stupak, Jr., and further in view of Curtis et al.

Hattori et al., as modified by Stupak, Jr., disclose the electromagnetic valve actuator cited above, however, fail to disclose the permanent magnet having a higher intensity than the electromagnet.

Hattori et al. suggest that the attracting force of the electromagnetic current is less than the attracting force of the permanent magnet (Figures 2C and 2D) and the releasing current only needs to be of an intensity to effectively reduce or cancel the attracting force of the permanent magnet allowing the other permanent magnet and electromagnet attracting forces to move the armature (column 1, lines 54-67 with column 2, lines 1-7). One of ordinary skill in the art would

have reasonably assumed that the intensity of the magnetic field generated by the electromagnet could be less than the intensity of the permanent magnet to still provide valve actuation.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hattori et al. in view of Stupak, Jr., and further in view of Kawamura (U.S. Patent 5,111,779).

Hattori et al., as modified by Stupak, Jr., disclose the electromagnetic valve actuator cited above, however, fail to disclose the permanent magnets mounted on an end portion of an E-shaped support structure.

Kawamura teaches an electromagnetic valve actuating system with fixed magnetic poles 4a and either side of a permanent magnet 3 (column 3, lines 9-14) forming generally an E-shaped structure, the permanent magnet 3 forming the middle portion of the "E". It would have been obvious to one having ordinary skill in the art at the time of the invention was made, to have utilized the teaching by Kawamura in the electromagnetic valve actuator of Hattori et al., since the use thereof would have provided an alternate location of position the permanent magnets or reducing the number of magnets.

#### *Response to Arguments*

7. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

#### *Communication*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kyle M. Riddle whose telephone number is (571) 272-4864. The examiner can normally be reached on M-F (07:30-5:00) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Kyle M. Riddle*

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